

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 12,748

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Appeal of)

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INTRODUCTION

The petitioner appeals a decision of the Department of Social Welfare finding that he is no longer eligible for Medicaid benefits because of an increase in earned income.

FINDINGS OF FACT

1. The petitioner is a twenty-seven-year-old man who receives Social Security Disability benefits. He has been mentally disabled all his life but has been working towards attaining an independent life-style through job training programs and counseling sessions geared towards moving him into the work force. His training programs are paid through another program but many of the counseling sessions were paid for by Medicaid.
2. Recently the petitioner obtained a job working as a bagger in a grocery store. With the money from this job, he has been able to move from his parent's home into an apartment where he is learning skills needed for independent living. He has not lost any of his Social Security benefits yet due to his ability to earn income because the money he earns is exempted for a period of time under a "trial work" provision in the Social Security regulations.
3. The petitioner reported to the Department that he was earning about \$518.76 per month from the grocery store job in addition to his \$716.00 Social Security check. On March 29, 1994, the Department notified the petitioner that he would no longer be eligible for Medicaid based upon his new earned income until he incurred \$2,770.56 in medical expenses over a six month period. On May 3, 1994, the Department realizing that an error had been made, sent the petitioner a new notice stating that he would still be ineligible for Medicaid benefits but that the amount of medical bills he had to incur in a six month period before Medicaid would cover him again is \$1,559.28.
4. The Department calculated the petitioner's eligibility as follows:

Gross Earned Income + \$ 518.76

Employment Expense Disregard - \$ 65.00

Subtotal = \$ 453.76

SSI/AABD Earned Income Disregard - \$ 226.88

(one half of subtotal)

Countable Earned Income Subtotal = \$ 226.88

Unearned income (SSDI Net) + \$ 716.00

Total Countable Net Income = \$ 942.88

Protected Income Level - \$ 683.00

Monthly Excess of Income = \$ 259.88

Monthly Excess x 6 months = \$1,559.28

5. The petitioner does not dispute the accuracy of the figures and calculations made above. Rather he believes that all of his earned income should be disregarded from figuring his monthly countable income because he needs the income to start up an independent life and needs the

Medicaid benefits to continue to pay for the counseling he needs to keep the job.

ORDER

The Department's decision is affirmed.

REASONS

Although the Medicaid and Social Security programs are alike in terms of their categorical eligibility, i.e. they use the same rules for determining who is disabled or elderly, they each have their own rules for financial eligibility. Unlike the Social Security program, the Medicaid program does not have any provisions for temporarily excluding earned income which is the product of a "work trial". The regulations clearly state that "All earned income of the aged, blind or disabled applicant/recipient(s) and his/her responsible relatives must be counted, except income that is specifically excluded under Definition of Earned Income and Definition of Unearned Income." M240.

Social Security benefits are specifically included as a completely countable form of unearned income in the regulations. See M242(1). The regulations under earned income contain no exclusion for "trial work" income (see M241.1) although they do allow a \$65.00 standard deduction for work expenses (M243.1(7)) and a disregard of half of the remaining earned income (M243.1(9)). In addition, disabled persons are allowed deductions for the following work-related expenses:

- transportation to and from work including vehicle modifications.
- impairment related training
- attendant care
- structural modifications to the home
- medical devices such as wheelchairs

M241.2(3)

The petitioner has not presented any evidence that he has to bear the expense of any of the additional work-related expenses listed above. However, if he believes he has any of those, he can take them to the Department for an immediate recalculation of his benefits. Based on the evidence available at the hearing, it appears that the Department's calculations in this case are correctly based upon its regulations and, therefore, the decision to terminate the petitioner's Medicaid benefits must be upheld, although it would be hard for any thoughtful person to disagree with the petitioner that the application of those regulations in his case actually presents an obstacle to his laudable attempt to become self-supporting.

Equally problematic for the petitioner in this situation is the fact that his annual increase (in January) in Social Security benefits (up to \$716.00) coupled with the Department's simultaneous (January 1, 1994) reduction of the protected income level for one person from \$700.00 (outside Chittenden County) to \$683.00 per month (see Procedures Manual 2420B-1), makes him ineligible for Medicaid on his unearned and fully countable Social Security benefits alone. Therefore, although this decision may appear to be a disincentive for him to work, he will actually be ineligible for Medicaid benefits even if he quits his job, although his "spend-down" amount (the amount of medical expense he must incur in a six month level) would be reduced to \$198.00. The petitioner would do well to factor this information into any decision he might make about his work situation.

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